

view the site plan and make recommendations to the director regarding these facilities.

- (5) The director has approved the site plan where a development plat has been filed with the city or he has approved the building permit application for a site for which a subdivision plat has been filed.

(b) The director shall approve a building permit application which complies with the provisions of this chapter and all other provisions of the ordinances of the City of Houston.

(c) The director shall deny in writing all building permit applications that do not comply with the provisions of this chapter.

(Ord. No. 89-712, § 2, 5-17-89)

#### ARTICLE IV. BUILDING PERMITS

##### Sec. 26-40. Review of building permit.

(a) The director shall review building permit applications for the construction or alteration of a building to determine if the proposed building or alteration of a building complies with the following:

- (1) The building permit application identifies the proposed structure and its proposed use.
- (2) The plans for the building or alteration provides at least the minimum number of parking and loading facilities required by articles II and III of this chapter.
- (3) When required by this chapter, the applicant has executed the appropriate documents for an off-site parking facility and presented to the director a certified copy of these documents as recorded in the real property records of the county in which the property is located.
- (4) Whenever a building or structure includes a drive-in or drive-through facility, the director has reviewed and approved the configuration of the parking lots and stalls. The traffic engineer shall also re-

##### Sec. 26-41. Appeal of denial of building permits.

Appeals from the denial of a building permit for non-compliance with this chapter shall be reviewed in the same manner as subdivision plat variances are reviewed under section 42-33 of this Code.

(Ord. No. 89-712, § 2, 5-17-89)

##### Secs. 26-42—26-49. Reserved.

#### ARTICLE V. VARIANCES

##### Sec. 26-50. Variance procedure.

(a) An applicant for a building permit may make written application to the director for a variance from the requirements of this chapter. A completed application for a variance shall include:

- (1) Completed application form supplied by the city;
- (2) A non-refundable fee of \$942.00; and
- (3) A complete notice in the form set out in Appendix A to Ordinance No. 89-712 to be mailed to all property owners.

This application package shall be reviewed by the department.

(b) Within seven days of the date the application is accepted, the director shall forward a copy of the application to the traffic engineer who shall file his report and recommendations regarding the proposed variance with the secretary of the commission. The city shall mail copies of the notices supplied by the applicant to adjacent property owners within a 500-foot radius of the site for which building permit is sought, within ten days of the date on which the variance will be considered by the commission. The city's failure to mail such notice or failure of the property owner(s) to receive such notice shall not invalidate or affect a variance acted upon by the commission.

(c) A staff report regarding the variance request shall be provided to the commission prior to the meeting at which the variance shall be considered.  
(Ord. No. 89-712, § 2, 5-17-89; Ord. No. 91-1174, § 1, 8-14-91)

#### **Sec. 26-51. Standards for variances.**

(a) The commission is authorized to consider and grant variances from the provisions of this chapter by majority vote of those members present and voting, when the commission determines that the first five of the following conditions exist, and if applicable, the sixth condition, exists:

- (1) The imposition of the terms, rules, conditions, policies and standards of this chapter would deprive the owner or applicant of the property of reasonable use of the land or building;
- (2) That the circumstances supporting the granting of the variance are not the result of a hardship imposed or created by the applicant and that in granting the variance the general purposes of this chapter are being observed and maintained;
- (3) The intent of this chapter is preserved;
- (4) The parking provided will be sufficient to serve the use for which it is intended;
- (5) The granting of such a variance will not be injurious to the public health, safety or welfare; and

- (6) For a development that is subject to the requirements of article VII, chapter 33, of this Code, the granting of the variance is necessary to accomplish the purposes of a certificate of appropriateness issued pursuant to article VII, chapter 33, of this Code.

(b) In addition, if the variance involves an off-site parking facility, the commission must determine that a proposed off-site parking facility will be located so that it will adequately serve the use for which it is intended. In making this determination, the following factors, among other things, shall be considered:

- (1) The location of the proposed building and the proposed off-site parking facility.
  - (2) Existing and potential parking demand created by other occupancies in the vicinity.
  - (3) The characteristics of the occupancy, including employee and customer parking demand, hours of operation, and projected convenience and frequency of use of the off-site parking.
  - (4) Adequacy, convenience, and safety of pedestrian access between off-site parking and the occupancy.
  - (5) Traffic patterns on adjacent streets, and proposed access to the off-site parking.
  - (6) The report and recommendation of the director and the traffic engineer.
- (Ord. No. 89-712, § 2, 5-17-89; Ord. No. 95-228, §§ 8—10, 3-1-95; Ord. No. 03-159, § 4, 2-12-03)

#### **Sec. 26-52. Applicability of variance.**

Any variance granted under the provisions of this section will apply only to the specific property and use upon which the commission was requested to grant a variance by the applicant and shall not constitute a change of this chapter or any part hereof. All variances as granted shall be in writing, shall be signed by the secretary of the commission and maintained as a permanent record of the commission.

(Ord. No. 89-712, § 2, 5-17-89)

**Secs. 26-53—26-59. Reserved.**

## **ARTICLE VI. CONSTRUCTION AND MAINTENANCE**

### **Sec. 26-60. Construction standard for parking facilities.**

All parking facilities to be constructed hereunder shall be constructed in accordance with applicable provisions of the Construction Code. In addition, the following basic standards for paving and drainage shall be observed:

- (1) Parking and loading facilities shall be surfaced and maintained with asphaltic, concrete, or allweather surfacing or other permanent hard surfacing material sufficient to prevent the accumulation of mud, dust or loose material. Materials may be pervious.
- (2) All parking and loading facilities shall be graded and provided with permanent storm drainage facilities that meet the construction specifications set by the city engineer. Surfacing, curbing and drainage improvements shall be sufficient to preclude free flow of water onto adjacent properties or public streets or alleys and to provide adequate drainage.

(Ord. No. 89-712, § 2, 5-17-89; Ord. No. 93-514, § 39, 5-5-93; Ord. No. 02-399, § 57, 5-15-02)

### **Sec. 26-61. Safety standards for parking facilities.**

(a) All parking and loading facilities provided hereunder shall meet the following safety standards:

- (1) Safety barriers, protective bumpers or curbing, and directional markers have been provided to assure safety, efficient utilization, protection to landscaping, and to prevent encroachment onto adjoining public or private property.
- (2) Motorist visibility of pedestrians, bicyclists, and other vehicles shall be assured when entering individual parking spaces,

when circulating within a parking facility, and when entering and exiting a parking facility.

- (3) Internal circulation patterns, and the location and traffic direction of all access drives, shall be designed and maintained in accordance with accepted principles of traffic engineering and traffic safety.

(b) All parking and loading facilities shall be maintained to assure desirability and usefulness of the facility. Such facilities shall be maintained free of refuse, debris or other accumulated matter and shall at all times be available for the off-street parking or loading use for which they are required or intended.

(Ord. No. 89-712, § 2, 5-17-89)